761551N25A - SH - AD - 32A (11/02)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

"A Tradition of Service"

OFFICE CORRESPONDENCE

DATE: August 10, 2006

FILE NO.: SH2149573

FROM: JOHNNY G. JURADO, COMMANDER
ERIC B. SMITH, COMMANDER
KENNETH J. BRAZILE, COMMANDER

TO: KARYN MANNIS, CAPTAIN
INTERNAL AFFAIRS BUREAU

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE DISPOSITION:**

DEPUTY RICK MANES #[redacted]
DEPUTY RANDELL HEBERLE #[redacted]
DEPUTY MARK RICHARDSON #[redacted]
DEPUTY ERIC METTEN #[redacted]
DEPUTY THEODORE KNOTT #[redacted]
PALMDALE STATION

On June 29, 2005 at about 0911 hours, Palmdale Station deputies responded to Crazy Otto's Diner regarding an assault with a deadly weapon "now" call. While en route, deputies were advised that the suspect had a handgun and had chased a female into the restaurant. In addition, the suspect had ordered the other patrons out of the restaurant, and the telephone connection went dead.

Upon the deputies' arrival, they saw employees and patrons fleeing the restaurant. Believing they were faced with an active shooter situation, they formed and entry team, entered and searched for the suspect and a possible hostage. The deputies located the suspect, seated in a booth at the back of the restaurant with a female. The suspect was holding the female around her neck with his right arm, while simultaneously pointing a handgun at his own head with his left hand. The deputies ordered the suspect to drop the gun and release the victim. Instead of complying, the suspect turned and pointed the gun at the female's head. The deputies, fearing for the live of the victim, fired their duty weapons striking the suspect.

The suspect sustained multiple gunshot wounds to the head and torso and was pronounced dead at the location. The victim was not injured during the incident. The suspect's weapon, a .40 caliber Glock semiautomatic pistol, was recovered from the scene. No deputies were injured.

On August 10, 2006, the Executive Force Review Committee convened and conducted a review regarding the facts of this case. The applicable policies that were evaluated by the committee were: MMP § 3-01/025.00: Use of Force; MMP § 3-01/025.30: Use of Firearms and Deadly Force; MMP § 3-01/025.10: Unreasonable Force; and MMP § 3-01/050.10: Performance to Standards. Concerning:

MMP § 3-01/025.00: Use of Force, MMP § 3-01/025.30: Use of Firearms and Deadly Force, and MMP § 3-01/025.10: Unreasonable Force, the Committee determined that the force used by the deputy was reasonable and necessary and in compliance with Department policy. MMP § 3-01/050.10: Performance to Standards, the Committee determined that the tactics employed by the deputies in this incident were within Department Policy.

Johnny G. Jurado, Commander

TABLE OF CONTENTS

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 06-29-2005	Bureau/Station/Facility: Palmdale Station	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 005-11522-2611-013	Date: 06-29-2005 Time: 0935
City or Station: Palmdale, CA 93550 Location: [redacted] E. Palmdale Boulevard	Nature of Incident: Deputies responded to a man with a gun call. On arrival, Deputies saw a male Hispanic holding a female Hispanic at gunpoint. Suspect pointed the weapon at the female and deputies shot the suspect. The female victim was rescued unharmed.

Location Type (*circle one or more*): Backyard, Beach, **Business** (circled), Freeway, Industrial, Park, Parking Lot, Residence, Rural, School, Street, Other: ______

Lighting (*circle only one*): Darkness, **Daylight** (circled), Other, Street Lights

Weather (*circle only one*): **Clear** (circled), Cloudy, Fog, Rain

Distance: 6-7 feet

Incident Type (*circle one or more*): Accidental, **Armed Person** (circled), Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Warning Shot, Other: ______

Initiated by (*circle only one*): Arrest Warrant, **Call** (circled), Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol** (circled)

Aero Unit? ☐ Canine Unit? ☐

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect
30	0

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
	[redacted]			EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name: [redacted]		First Name: [redacted]		M.I.	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: [redacted]	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Burton	Vincent		**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting
[redacted]	Johnston	Mark	A.	**On Duty** (circled), Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	Ayala	Adalberto	J

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Porlier	Clay	

PSTD Use Only
SH # 2149573

SH-R-438A rev. 3/97

See Reverse

Officer Involved Shooting

URN: 005-11522-2611-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
06-29-2005	1215	05-25-2006	

Employee #	Last Name	First Name	M.I
[redacted]	Kuykendall	Kevin	R.
[redacted]	Hines	William	L.
[redacted]	Seno	Bennett	W.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Y	Y	GS	CH
E#2	S31	FH	BR	9	Y	Y	GS	CH
E#3	S#1	FH	BR	9	Y	Y	GS	HE
E#4	S#1	FH	BR	9	Y	Y	GS	HE
E#5	S#1	FH	BR	9	Y	Y	GS	HE

See Front Side



Officer Involved Shooting
Involved Employee Information

URN: 005-11522-2611-013

Involved Employee

E 1

Employee # [redacted]	Last Name: Heberle	First Name: Randall	M.I.: J.
Sex: M Race: W	Rank: DSG	Unit Assignment: PLM/P.A.C.	Work Assignment (Unit #, Module, etc.): 260A
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 6-01 Weight: 190			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 2

Employee # [redacted]	Last Name: Knott	First Name: Theodore	M.I.: P.
Sex: M Race: W	Rank: DSG	Unit Assignment: PLM	Work Assignment (Unit #, Module, etc.): 262
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 5-09 Weight: 170			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 3

Employee # [redacted]	Last Name: Manes	First Name: Rick	M.I.: D.
Sex: M Race: W	Rank: B-1	Unit Assignment: PLM/P.A.C.	Work Assignment (Unit #, Module, etc.): 260A
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 6-01 Weight: 225			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 1
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

See Other Side

Officer Involved Shooting
Involved Employee Information

URN: 005-11522-2611-013

Involved Employee

E 4

Employee # [redacted]	Last Name: Metten	First Name: Eric	M.I.: A.
Sex: M Race: W	Rank: DSG	Unit Assignment: PLM	Work Assignment (Unit #, Module, etc.): 263J
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors:
Age: [redacted] Height: 5-10 Weight: 155			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]		Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 1
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.

E 5

Employee # [redacted]	Last Name: Richardson	First Name: Mark	M.I.: S.
Sex: M Race: W	Rank: B-1	Unit Assignment: PLM/P.A.C.	Work Assignment (Unit #, Module, etc.): 260A2
ShiftTime (*circle only one*): EM PM (Day)	ShiftType (*circle only one*): (Regular) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, (Uniform w/ Vest)	Other Factors: laser sights
Age: [redacted] Height: 5-08 Weight: 170			
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]		Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? ☒ Number of Prior Shootings: 3
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E __

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank:	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height: Weight:			
Range Qualification Date:	PPC Qualification Date:		Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting Suspect Information

URN: 005-11522-2611-013

Suspect Information

S 1

Last Name: Leyva		First Name: Lazaro	M.I.
AKA Last Name		First Name	M.I.
Sex: M Race: Hispanic	Street Address: [redacted]	City [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone:	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 29 D.O.B. 11-23-1975	Height: 5-07 Weight: 140	FBI # [redacted]	CII # [redacted]
Booking # N/A	Primary Charge:	Secondary Charge:	
Coroner Case? ☒	Coroner Case # 2005-04898	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☒	Apprehended? ☐	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make: None		Model:	Year:

S ___

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S ___

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S ___

Last Name		First Name	M.I.
AKA Last Name		First Name	M.I.
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

See Other Side

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department

Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	Hisp anic	[redacted]	[redacted]		661-265-8574
Moreno	Rick		1320 N. Eastern Avenue, Los Angeles, CA	90063	323-881-6015	
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]

COUNTY OF LOS ANGELES
SHERIFF"S DEPARTMENT

HIT SHOOTING - SUSPECT DECEASED
EVALUATION

UNIT:	Palmdale Station Patrol
DATE:	June 29, 2005 (Wednesday)
TIME:	0911 hours
LOCATION:	120 E. Palmdale Boulevard, Palmdale, CA 93550 DBA: Crazy Otto's Diner
URN#:	005-11522-2611-013
IAB#:	SH 2149573

NATURE OF
INCIDENT: On June 29, 2005, at about 0911 hours, units from Palmdale Station received a radio call to respond to Crazy Otto's Restaurant regarding an assault with a deadly weapon "now" call. While en route to the location, the deputies were advised that a male Hispanic had chased a female Hispanic into the restaurant, and the male had a handgun. Additional information given to the responding deputies was that the male had ordered the patrons out of the restaurant, and the telephone line went dead. Deputies Eric Metten, Unit 263J/days, Mark Richardson, Unit 260K/days, Rick Manes, Unit 260A3/days, Theodore Knott, Unit 262/days, and Randy Heberle, Unit 260A/days, responded to the location. Upon arrival, the deputies saw employees and patrons fleeing the restaurant. Believing they were faced with an "active shooter" situation, the deputies formed an entry team, entered, and searched for the suspect and hostage. The deputies saw the suspect, Lazaro Leyva, MH/29, seated in the rear of the diner, holding a handgun pointed at his head, and he had a female victim, [redacted] in a headlock seated next to him. The deputies ordered the suspect to drop the weapon and the suspect suddenly pointed the weapon at the female victim's head. Fearing for the safety of the victim, Deputies Metten, Richardson, Manes, Knott, and Heberle fired their service weapons at the suspect, striking him. The suspect slumped forward,. and the deputies approached the female victim, pulling her to safety.

IAB Note: A surveillance camera located inside the restaurant recorded the shooting on, refer to Exhibit D for a DVD of the footage.

Paramedics from Los Angeles County Fire Department responded and pronounced Lazaro Leyva deceased.

Internal Affairs Bureau was notified at 1030 hours, and Sergeants William Hines and Kevin Kuykendall, along with Lieutenant Ben Seno, of the Internal Affairs Bureau responded to the command post, in the city of Palmdale, regarding a deputy involved hit shooting. When the

investigators arrived, Homicide Bureau personnel were at the scene investigating the incident.

On January 17, 2006, Deputy District Attorney Corene S. Locke-Noble issued a Letter of Opinion regarding the deputy involved shooting incident. In her review of the shooting, D.D.A. Locke-Noble deemed Deputies Manes, Herble, Richardson, Metten, and Knott acted lawfully in self-defense and in the defense of others.

The following summary is based on verbal and written statements from the involved deputies, civilian and employee witness statements.

INVOLVED PERSONNEL:

HEBERLE, RANDELL, Deputy Sheriff, #[redacted]
Palmdale Station
Patrol Operations, Region I

EMPLOYEE WORK HISTORY:

Date of Employment:	05-23-1989
Date assigned to Patrol/Custody:	[redacted]
Completed Patrol/Custody Training:	
Prior Shooting Incident(s):	
Prior Founded Force Incidents:	

KNOTT, THEODORE, Deputy Sheriff, #[redacted]
Palmdale Station
Patrol Operations, Region I

EMPLOYEE WORK HISTORY:

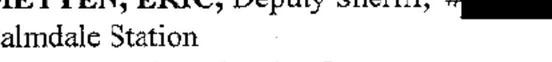
Date of Employment:	02-23-1999
Date assigned to Patrol/Custody:	[redacted]
Completed Patrol/Custody Training:	
Prior Shooting Incidents:	
Prior Founded Force Incidents:	

MANES, RICK, Deputy Sheriff, #[redacted]
Palmdale Station
Patrol Operations, Region I

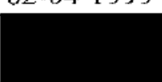
EMPLOYEE WORK HISTORY:

Date of Employment: 01-21-1990
Date assigned to Patrol/Custody: [redacted]
Completed Patrol/Custody Training:

Prior Shooting Incidents: (1), 11-20-2002, Palmdale, SH2076232, Gun take away, struggle involved
Prior Founded Force Incidents: [redacted]

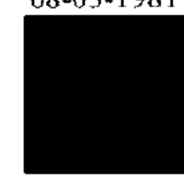

METTEN, ERIC, Deputy Sheriff, #[redacted]
Palmdale Station
Patrol Operations, Region I

EMPLOYEE WORK HISTORY:

Date of Employment: 02-04-1999
Date assigned to Patrol/Custody: [redacted]
Completed Patrol/Custody Training:

Prior Shooting Incident(s): (1), 4-01-2005, Palmdale, SH2144589, armed person
Prior Founded Force Incidents: [redacted]

RICHARDSON, MARK, Deputy Sheriff, #[redacted]
Palmdale Station
Patrol Operations, Region I

EMPLOYEE WORK HISTORY:

Date of Employment: 08-03-1981
Date assigned to Patrol/Custody: [redacted]
Completed Patrol/Custody Training:
Prior Shooting Incident(s):
Prior Founded Force Incidents:


SUSPECT(S):

LEYVA, Lazaro, MH/29 yrs. DOB: 11-23-1975, 5'-06", 145 lbs., black/black
[redacted]
C.I.I. #[redacted] **Main #**[redacted] **FBI #**[redacted]

Suspect Leyva's criminal history consists of narcotic's violations, petty theft, A.D.W., battery, and vandalism.

CIVILIAN WITNESSES:

1. [redacted]
2.
3
4.
5. Moreno, Rick, LA Co FD Battalion Chief
6. [redacted]
7.
8.
9.
10.
11.

DEPARTMENT WITNESSES:

1. Johnston, Mark A. , Sergeant, #[redacted]

INJURIES:

Suspect

Suspect Leyva sustained fifteen gunshot wounds to the head, upper left arm and chest, along with wounds to the upper right arm. The Corner determined that seven wounds were fatal in nature.

WEATHER AND LIGHTING CONDITIONS:

Dark, clear, with little or no clouds.

WEAPONS USED BY SUSPECT(S):

SUSPECT LAZARO LEYVA was armed with a Glock, semiautomatic pistol, serial # [redacted], .40 caliber, Model 23, ten round magazine loaded with eight .40 caliber live rounds and one live round in the weapon's chamber.

WEAPON(S) USED BY DEPUTY PERSONNEL:

DEPUTY RANDY HEBERLE

Service Weapon - Berretta, 92F (Serial Number BER[redacted]Z), Double Action Semi automatic

Pistol, 9mm Luger
Type Of Ammunition- Winchester Brand Ranger "T", 9 mm Luger cartridges.

Ammunition- three rounds fired.
Shells - A total of thirty 9mm casings were located and recovered at the scene.
Date Employee Last Qualified: (Mobile Range)  [redacted]
Date Last Trained With Weapon:

Lab Receipt No. J653836 Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section (Refer to Exhibit A, page 87)

DEPUTY THEODORE KNOTT
Service Weapon- Berretta, 92F (Serial Number BER[redacted]), Double Action Semi automatic Pistol, 9mm Luger
Type Of Ammunition- Winchester Brand Ranger "T", 9 mm Luger cartridges.
Ammunition- six rounds fired and ten left in the magazine and weapon.
Shell Casings- A total of thirty shell casings were located at the scene.
Date Employee Last Qualified: (Mobile Range)  [redacted]
Date Last Trained With Weapon:

Lab Receipt No. J653836 Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section (Refer to Exhibit A, page 87)

DEPUTY RICK MANES
Service Weapon- Berretta, 92F (Serial Number BER[redacted]), Double Action Semi automatic Pistol, 9mm Luger
Type Of Ammunition- Winchester Brand Ranger "T", 9 mm Luger cartridges.
Ammunition- eight rounds fired and eight left in the magazine and weapon.
Shell Casings- A total of thirty shell casings were located at the scene.
Date Employee Last Qualified: (Mobile Range)  [redacted]
Date Last Trained With Weapon:

Lab Receipt No. J653836 Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section (Refer to Exhibit A, page 87)

DEPUTY ERIC METTEN
Service Weapon- Berretta, 92F (Serial Number BER[redacted]), Double Action Semi automatic

Pistol, 9mm Luger
Type Of Ammunition- Winchester Brand Ranger "T", 9 mm Luger cartridges.
Ammunition- eleven rounds fired and five left in the magazine and weapon.
Shell Casings- A total of thirty shell casings were located at the scene.
Date Employee Last Qualified: (Mobile Range) [redacted]
Date Last Trained With Weapon:



Lab Receipt No. J653836 Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section (Refer to Exhibit A, page 87)

DEPUTY MARK RICHARDSON
Service Weapon- Berretta, 92F (Serial Number BER[redacted]Z), Double Action Semi automatic Pistol, 9mm Luger
Type Of Ammunition- Winchester Brand Ranger "T", 9 mm Luger cartridges.
Ammunition- two rounds fired and fourteen left in the magazine and weapon.
Shell Casings- A total of thirty shell casings were located at the scene.
Date Employee Last Qualified: (Mobile Range) [redacted]
Date Last Trained With Weapon:



Lab Receipt No. J653836 Los Angeles County Sheriff's Department- Scientific Services Bureau, Firearms Identification Section (Refer to Exhibit A, page 87)

INVOLVED DEPUTY(S) STATEMENTS:

HEBERLE, Randell, Deputy Sheriff, #[redacted]
Deputy Randell Heberle was interviewed by Homicide Investigators Kevin Lowe and Dameron Peyton on 06-29-2005, at 1620 hours. The interview took place at Palmdale Station, and he was represented by Ms. Elizabeth Gibbons, ALADS. Deputy Heberle was interviewed again on May 11, 2006, by IAB investigators Larry Landreth and Lt. William Hines. The interview took place at Palmdale Station. Both interviews were tape recorded and the following is a summary of the interviews.

Deputy Herberle said on June 29, 2005, he was working as unit 260A days with an assigned partner, Deputy Rick Manes. They monitored a radio call of an assault with a deadly weapon, now at "Crazy Otto's Diner." They responded from Division and Avenue Q toward the location, and while en route, a second call was broadcast of a, "man with a gun/domestic disturbance" call at the "Mobil" gas station/convenience store. Deputy Heberle said he was aware that the Mobile gas station was next door to the "Crazy Otto's" Diner and believed the calls were related. Upon arrival at the gas station, Heberle saw several people standing out in front and they yelled to him there was a man with a gun

chasing a female. The people indicated both the female and male went toward the restaurant. Deputy Heberle said they went around to the restaurant and saw several individuals fleeing from the restaurant. Deputy Heberle said he radioed over the "patch" to responding units that the two calls were related. The call indicated both the suspect and victim were at the restaurant. He said several people fleeing the restaurant told him there was a man inside the restaurant, with a gun in the kitchen area, chasing a woman. Due to the nature of the call (assault with a deadly weapon "now"), the chaotic scene of people fleeing from the restaurant, and the person saying that there was a man holding a hostage inside, Deputy Heberle said he believed that there was an active shooter inside the location. Heberle said he assembled with Deputies Manes, Richardson, Metten, and Knott and discussed they believed they had an active shooter situation. Heberle said he believed all of the deputies assembled had attended Active Shooter training and were aware of their responsibilities. Heberle said they had sufficient personnel to form a search team as he had learned when he attended Active Shooter training. Prior to entering the location, Heberle said he heard Deputy Metten radio over the "patch" requesting additional units to set up a containment on the restaurant, a canine team, and an airship. Deputy Metten also radioed that the had a team assembled and were entering the restaurant.

> **IAB Note: Deputy Metten's radio traffic was verified after listening to the recorded transmissions related to the incident. Refer to Exhibit I.**

Deputy Heberle said he attended Active Shooter training twice, with the last time at Palmdale High School, along with Deputy Manes [redacted]

> **IAB Note: A check of Deputy Heberle's training records revealed he attended the Active Shooter training on [redacted]**

Deputy Heberle said Deputies Manes and Richardson were assigned along with him on the Palmdale Partners Against Crime (P.A.C.) Team and they worked exclusively together, on a daily basis, conducting searched of buildings.

Deputy Heberle said they entered the restaurant, and using a "star pattern" searched, cleared the entrance, bathrooms, and kitchen area for patrons and or suspect(s). Heberle said they remained within sight of each other, stopping, holding, and clearing before moving on to another location. Heberle heard Deputy Manes yell that he had found the suspect in the rear of the restaurant. Deputy Heberle said he and the other deputies moved together to a booth wall, just east of the booth where the suspect was located. As he reached the rear of the restaurant, Heberle saw Suspect Lazaro Leyva seated in the middle room to the rear of the restaurant, in a corner booth located in the northwest portion of the room. He was holding a handgun with his left hand to his head, and was holding Victim [redacted] tightly with his right arm. Deputy Heberle said he heard Deputy Manes and another deputy (Richardson) giving commands to Suspect Leyva to drop the gun. Herberle said he

did not give any commands and trained his weapon on the suspect. He said Deputy Metten was on the radio broadcasting and requesting additional units to respond. He heard Suspect Leyva say, "I'm gonna kill her." Heberle was standing to the left of the walkway and said he thought Deputy Manes was to his right. Suddenly, Suspect Leyva removed the gun from his head, and pointed it in the direction of Victim [redacted] head. Fearing for the safety of the victim, Heberle fired his duty weapon three times at Suspect Leyva. Heberle said he fired two to the suspect's body and one round to the head. He stopped when he saw the suspect appeared to be incapacitated. When the shooting stopped, he stepped into the booth area, and removed Victim [redacted] from her seat.

Deputy Heberle was provided a diagram of the restaurant's interior and placed the approximate location of the deputies during the shooting. **Refer to Exhibit H, for the diagram.**

Deputy Heberle said there was little or no cover where he and the other deputies fired from. He said to take up cover, he would have to move back to a booth wall several feet away. Heberle said he did not feel that was an option to move back and give up the ground they had secured. He said he did not believe they were faced with a barricade suspect because the incident was moving so rapidly, and he believed the suspect was preparing to kill the victim, himself, or the deputies.

IAB Note: During Deputy Heberle's interview, he estimated that approximately two minutes transpired from the time they entered the restaurant and when the shooting occurred.

Deputy Heberle said his back drop was a solid wall behind the suspect. He also said there was no designated shooter discussed prior to the shooting. He said each deputy may have seen something different from their location and he thought for that reason, a designated shooter would not have been an option. Deputy Heberle also added that the resources available to deputies in the greater Los Angeles County are not available to the deputies in the Antelope Valley. It has been his experience that a response of Crisis Negotiation Teams, S.E.B., and other resource can take between one and four hours to respond.

KNOTT, Theodore, Deputy Sheriff, #[redacted]

Deputy Theodore Knott was interviewed by Homicide Investigators Kevin Lowe and Dameron Peyton on 06-29-2005, at 1525 hours. The interview took place at Palmdale Station and he was represented by Ms. Elizabeth Gibbons, of the law firm of Green & Shinee. Deputy Knott was interviewed again on May 5, 2006, by IAB investigators Larry Landreth and David Stunson. The interview took place at Internal Affairs Bureau. Both interviews were tape recorded and the following is a summary of the interviews.

Deputy Knott said on June 29, 2005, he was working unit 262 days. He heard a radio call of an assault with a deadly weapon, now, at "Crazy Otto's Diner" The call indicated there was a man inside the location with a gun. A second call was generated of, "a man with a gun/domestic disturbance" call at the "Mobil" gas station/convenience store. Deputy Knott acknowledged the call

and requested a code three response. SCC acknowledged, and Deputy Knott responded from Palmdale Station, and upon arrival at the restaurant, Deputy Knott met with Deputies Heberle, Manes, Richardson, and Metten at the front door of the location. There was additional radio traffic that there was a possible hostage inside the location. Due to the nature of the calls, people seen running from the restaurant and a potential hostage inside the location, Knott said he believed there was an active shooter inside the location. Knott along with Deputies Manes, Heberle, and Metten gathered ,entered, and search for the suspect/victim.

Prior to entering, Deputy Metten broadcast the unit identifiers of all who were entering the location to search for the suspect **(verified by radio transmission recordings).** Deputy Knott said there was some discussion of how they were going to handle the call. There was no discussion of designated shooters, contingencies, or what areas each deputy would be responsible for in a search. Deputy Knott and the other deputies entered the restaurant. Deputy Richardson entered the location shortly after the other deputies. They cleared the front areas for patrons of the restaurant and or suspect(s). Deputy Knott said the team systematically cleared areas ,and moved forward, communicating with each other. After clearing the restrooms, Deputy Knott heard Deputy Manes say, "there are two people in the back and he has a gun." Deputy Knott said he joined up with the other deputies, and they moved to the rear to assist Deputy Manes.

IAB Note: Deputy Knott drew a diagram of the restaurant interior and used the diagram to show where he and the other deputies entered and searched. He also indicated the location of himself and the other deputies during the shooting. Refer to Exhibit H for the diagram.

As Deputy Knott reached the rear of the restaurant, he saw Suspect Lazaro Leyva seated in the middle room to the rear of the restaurant, in a corner booth located in the northwest portion of the room. He was holding a handgun with his left hand to his head, and was holding Victim [redacted] in a headlock with his right arm, pressed up against his body very tightly. Knott said he saw that the victim had both her hands covering her face and was crying. There was a cellular telephone open and on the table in front of the suspect. Deputy Knott said he remembered deputies yelling for Suspect Lazaro Leyva to put the gun down. Knott also remembered Suspect Lazaro Leyva appeared to have a blank gaze as he looked at him. Deputy Knott became extremely concerned for Victim [redacted] well being and was nervous as to what the suspect may do. Deputy Knott said his immediate thought was that Suspect Lazaro Leyva was going to kill Victim [redacted] and turn the weapon on the deputies in a "suicide by cop" scenario. Deputy Knott said that he manually adjusted his duty weapon to single action to steady his shot and ensure accuracy in case he had to fire. Knott heard Deputy Metten on the radio advising units there was a male with a gun holding a female hostage. Suddenly, Knott said that Suspect Leyva bent down, removed the gun from his head, and pointed it slightly forward toward the head of Victim [redacted] Deputy Knott believed that Suspect Lazaro Leyva was either going to shoot him, his fellow deputies, or the victim, [redacted] Fearing for his safety and the safety of the victim, Deputy Knott said he fired six rounds from his duty weapon at Suspect Lazaro Leyva. He fired his first two shots at the suspect's

head, paused slightly, and saw that the suspect still had the weapon and was pointing it toward the victim. Deputy Knott fired again at the suspect's head until he saw the suspect motionless, and the weapon was out of the suspect's hands. Deputy Knott said he fired all his rounds at the suspect's head from approximately ten feet.

Deputy Knott said he had attended Active Shooter training at Palmdale High School provided by personnel at Palmdale Station. [redacted]

> **IAB Note: A check of Deputy Knott's training records revealed he attended Active Shooter training on [redacted]**

Deputy Knott said there was no cover available to them from where the shooting occurred. He said he was aware and concerned for that fact. The closest cover would have been a booth wall several feet back from them. There would have been only room for one deputy to cover the suspect and Knott said shot accuracy would have been lost from that distance. Deputy Knott said he was armed with a taser, but felt it was not appropriate to use in that situation. Deputy Knott said his backdrop was a cinder block wall behind the suspect.

MANES, RICK, Deputy Sheriff, #[redacted]

Deputy Rick Manes was interviewed by Homicide Investigators Kevin Lowe and Dameron Peyton on 06-29-2005, at 1555 hours. The interview took place at Palmdale Station, and he was represented by Ms. Elizabeth Gibbons, of the law firm of Green & Shinee. Deputy Manes was interviewed again on May 11, 2006, by IAB investigators Sergeant Larry Landreth and Lt. William Hines. The interview took place at Palmdale Station. Both interviews were tape recorded and the following is a summary of the interviews.

On June 29, 2005, at about 0910 hours, Deputy Manes was working as unit 260A/days, with his assigned partner, Deputy Randell Heberle, on the Palmdale Partners Against Crime Team. They heard a radio call of an assault with a deadly weapon call at "Crazy Otto's Diner." While en route, a second call was generated of, "a man with a gun/domestic disturbance" call at the "Mobile" gas station/convenience store. Manes said they were less than a half-mile from the location and responded. Upon arrival at the Mobil gas station, they saw people pointing toward Crazy Otto's Diner. Deputy Manes said an unknown male Hispanic adult yelled to him that there was a man with a gun running through the restaurant with a gun, and he was trying to take a hostage. Deputies Manes and Heberle ran around to the restaurant, and saw several individuals fleeing from the restaurant. Another male told Manes there was a male inside with a gun chasing a female. Deputy Manes said he and Deputy Herberle waited near the front door until Deputies Knott, Metten, and Richardson arrived at the location. Deputy Manes believed that there was an active shooter inside.

IAB Note: In Homicide Bureau Detective Peyton's supplemental report, Peyton wrote Deputy Manes said he and Deputies Knott, Metten, Heberle and Richardson formulated a plan prior to entering. Manes said they entered and formed an Active Shooter search team configuration.

Deputy Manes along with Deputies Heberle, Richardson, Metten and Knott gathered a search team and discussed briefly how they were going to search the inside. Manes said he told them he would go in first and act as a scout for the team.

Deputy Manes said he was very confident of the deputies who assembled to search the restaurant interior. He said he worked with Deputies Heberle and Richardson on a daily basis, exclusively, as part of the P.A.C. Team. Deputy Metten had been his [redacted] and he knew that Deputy Knott had been Deputy Richardson's [redacted]

Deputy Manes [redacted] believed the situation before them met the definition of an active shooter scenario. Manes said although he [redacted] that shots would be fired, he was not sure he could have heard any shots prior to entering due to the composition of the restaurant. He said the restaurant was made of cinder block and glass.

Deputy Manes said as they entered the restaurant and he was in front and to the left. They cleared the front areas for patrons and or suspect(s). As Manes cleared the kitchen area, keeping a visual on the other deputies, he could see into the rear dining area.

IAB Note: Deputy Manes was provided a diagram of the restaurant interior and used the diagram to show where he and the other deputies entered and searched. He also indicated the location of himself and the other deputies during the shooting. Refer to Exhibit H for the diagram.

Deputy Manes saw the suspect and victim seated in a rear booth. Deputy Manes pointed his weapon at the suspect and called out to the deputies that he had located the suspect and victim. Deputy Manes said he moved up to a waist high partition for cover and called out to the suspect to drop the weapon. Deputy Manes saw Suspect Lazaro Leyva seated in the middle diningroom, to the rear of the restaurant, in a corner booth. Suspect Leyva was holding a handgun with his left hand to his head, and was holding Victim [redacted] in a headlock with his right arm. Manes saw a cellular telephone on the table in front of the suspect. The other deputies arrived and formed a line in front of the suspect. Deputy Manes said he was standing off to the right of the walkway and believes Deputies Metten and Knott were to his left. Deputy Manes said that due to their body position in conjunction with the way Suspect Lazaro Leyva was holding the handgun, he thought that Suspect Lazaro Leyva was going to shoot himself and Victim [redacted] simultaneously. Deputy Manes said he saw the suspect looking at him with an apparent blank stare as he continually ordered him

to put the gun down. Deputy Manes again told Suspect Lazaro Leyva to drop the gun. Manes heard Deputy Richardson talking to the suspect, saying that it wasn't worth it, in an attempt to calm him and drop the weapon. Deputy Manes said he and the other deputies were careful not to talk over each other's commands. Suspect Lazaro Leyva did not acknowledge or respond. He remembers other deputies yelling for Suspect Lazaro Leyva to put the gun down. Deputy Manes said he became convinced that the suspect was intent on shooting himself, the victim, or the deputies. Suddenly, Suspect Lazaro Leyva removed the gun from his head, and pointed it in the direction of Victim [redacted] head. Fearing for his safety and the safety of the victim, Manes fired about eight rounds from his duty weapon at Suspect Lazaro Leyva. Deputy Manes said he believed he was the first to fire, and he heard numerous gunshots after his first round. Manes said he stopped firing when he saw the suspect was apparently dead. When the shooting stopped, Rick notified Sheriffs Dispatch, via his portable radio, that a shooting had occurred and requested medical attention for Suspect Lazaro Leyva. Deputy Manes said after the shooting, he turned, and walked out of the building.

Deputy Manes said he believed the entire incident lasted less than five minutes. He said it evolved very rapidly once they found the suspect in the rear. Manes said there was no discussion of a designated shooter because it was not an option. His back drop was a block wall behind the suspect.

METTEN, ERIC, Deputy Sheriff, #[redacted]

Deputy Eric Metten was interviewed by Homicide Investigators Kevin Lowe and Dameron Peyton on 06-29-2005, at 1450 hours. The interview took place at Palmdale Station, and he was represented by Ms. Elizabeth Gibbons, of the law firm of Green & Shinee. Deputy Metten was interviewed again on May 11, 2006, by IAB investigators Sergeant Larry Landreth and Lt. Bill Hines. The interview took place at Palmdale Station. Both interviews were tape recorded and the following is a summary of the interviews.

Deputy Metten said that on June 29, 2005, he was assigned as unit 263J/days when he responded to "Crazy Otto's Diner" from Palmdale Station regarding a assault with a deadly weapon call, now. When the call came out, he was the closest unit available, and responded Code-3 after S.C.C. acknowledged his response. As he responded, Metten heard an update to the call of a, "man inside the location with a gun." Upon his arrival, Metten saw a Los Angeles County Fire Chief, Battalion #17 (Witness Moreno), parked facing westbound in the eastbound lanes of traffic on Palmdale Boulevard. Metten questioned the Chief as to what was going on. Battalion Chief Moreno told Deputy Metten that there was a guy with a gun, who chased a girl into the restaurant. Witness Moreno also told Metten he had begun to evacuate the restaurant by using his P.A. to order the occupants out. The call was also updated to a hostage being held inside the restaurant by Unit 260A, Deputy Manes. Deputy Metten said he saw Deputies Heberle and Manes arrive at the Mobil gas station. As Metten approached the restaurant, he saw several people running from the location. Employees , as they fled the restaurant, told Deputy Metten there was a man inside with a gun.

Due to the nature of the call, Metten said he believed that there was an active shooter inside the location. Deputy Metten said he based this decision on the nature of the original call, the information he received from the Battalion Chief, and the restaurant employees running from the location. He

said he believed the suspect was chasing the female inside of the restaurant, and was going to shoot her. Deputy Metten said he requested an airship, canine team and an AR-15 to his location over the radio. Metten also requested additional units to set up a containment around the restaurant. Deputy Metten along with Deputies Manes, Heberle, and Knott assembled outside of the diner. Metten radioed that he, Heberle, Manes, and Knott were making entry and entered the restaurant as a team. As they entered, Deputy Richardson joined up with the team and entered. Deputy Metten said there was no time to stop and formulate a plan prior to entering. He said they all knew they had to go in immediately to contain the suspect, and prevent injury to the victim or any customers left inside.

IAB Note: In Homicide Bureau Detective Peyton's supplemental report, Peyton wrote Deputy Metten said he and Deputies Knott, Manes, Heberle and Richardson formulated a plan prior to entering.

Deputy Metten said he entered the restaurant and cleared the front area and counter area for additional victims, the female victim, and the male suspect. Metten said they moved as a team, clearing each area, and then moving on until Deputy Manes yelled out that he had found the suspect in the rear of the restaurant. Metten said there was communication between the deputies during the search and they all maintained sight of each other. Deputy Metten and the other deputies regrouped and moved into the rear dining area to assist Deputy Manes.

IAB Note: Deputy Metten was provided a diagram of the restaurant interior and used the diagram to show where he and the other deputies entered and searched. He also indicated the location of himself and the other deputies during the shooting. Refer to Exhibit H for the diagram.

As Metten reached the rear of the restaurant, he saw Suspect Lazaro Leyva seated in the middle diningroom, to the rear of the restaurant. Suspect Leyva was seated in a corner booth located in the northwest portion of the room. He was holding a handgun with his left hand to his head, and was holding Victim [redacted] in a headlock with his right arm. Metten noticed that the suspect appeared to look at him with a blank expression. Deputy Metten said he broadcasted they had the suspect holding the female at gunpoint. Deputy Metten said he was kneeling in the middle of the walkway leading to the booth in front of Deputy Richardson. He said Deputy Richardson had placed his hand on his shoulder, and told Metten not to stand up. Metten said he remembered Deputy Richardson telling the suspect, "To put the gun down" and "Its not worth it." There were other deputies talking to the suspect. Metten said he saw that Deputy Richardson had trained his laser sight on the suspect's forehead. The victim was talking, but Metten could not remember what she said. The suspect suddenly removed the gun from his head and pointed it in the direction of Victim [redacted] head. Fearing for the safety of the victim, Metton fired eleven rounds from his duty weapon at Suspect Lazaro Leyva from about six to eight feet away. Deputy Metten said he stopped firing at the suspect when he saw that the suspect was incapacitated. Deputy Richardson radioed that there had been a deputy involved shooting and requested paramedics to respond to their location. Metten said that Deputy Heberle ran up, pulled the victim away from the suspect, and handed her off to Sergeant Johnston, who had arrived on scene.

Deputy Metten said there was not any cover in the area where they set up in front of the suspect. Metten said he did not feel backing up to another location of cover was an option. To retreat would have given up ground they had secured and placed them farther away from the suspect. The extended distance would threaten a potentially accurate shot, should the suspect suddenly turn the weapon on the victim. Deputy Metten said he did not believe the situation changed from an active shooter to a barricade because the situation remained fluid and evolving. He said he did not believe backing away, and calling for additional resources was an option because of the remoteness of the Antelope Valley. SEB, Canine, and Crisis Negotiation Teams have a very long response time. The was no discussion of designating a shooter because Metten believed the situation was evolving so quickly, and different people could have perceived events differently.

Deputy Metten said he attended Active Shooter training provided by Palmdale Station personnel at Palmdale Station. [redacted] Metten said he utilized the training while searching for and isolating the suspect.

IAB Note: A check of Deputy Metten's training records revealed he attended the Active Shooter training on [redacted]

RICHARDSON, MARK, Deputy Sheriff, #[redacted]

Deputy Mark Richardson was interviewed by Homicide Investigators Kevin Lowe and Dameron Peyton on 06-29-2005, at 1650 hours. The interview took place at Palmdale Station, and he was represented by Ms. Elizabeth Gibbons, of the law firm of Green & Shinee. Deputy Richardson was interviewed again on May 11, 2006, by IAB investigators Sergeant Larry Landreth and Lt. William Hines. The interview took place at Palmdale Station. Both interviews were tape recorded and the following is a summary of the interviews.

On the day of the incident, June 29, 2005, Deputy Mark Richardson was assigned as unit 260K/day shift when he heard the call at Crazy Otto's Diner. While en route, Richardson monitored the update to the call concerning the man with a gun inside of the restaurant. Upon his arrival, he saw several people fleeing from the rear door of the restaurant. Richardson parked to the rear, and saw a person who he believed to be a cook fleeing the rear door of the restaurant. The restaurant employee told Deputy Richardson there was a man inside the restaurant with a gun, and he had a woman with him. He didn't tell Richardson where the man was located inside the restaurant. Deputy Richards said he attempted to enter the location through the rear door, but found the door locked behind the employee fleeing the location. Deputy Richardson said he went around to the front door, and saw the other deputies entering the location.

IAB Note: In Homicide Bureau Detective Peyton's supplemental report, Peyton wrote Deputy Richardson said he and Deputies Knott, Manes, Heberle and Metten formulated a plan prior to entering.

Richardson joined the deputies and assisted in conducting a search for additional victims and the suspect. Deputy Richardson said he believed he was faced with an active shooter inside the location because of the nature of the radio calls, he was not sure there were not more customers, and employees inside of the restaurant, and he believed the suspect was chasing the victim trying to shoot her. Richardson said he believed the situation was very fluid, and he did not feel it was a barricaded suspect situation. Deputy Richardson said he heard Deputy Metten, over the radio patch, request an AR-15, Canine, and an airship.

IAB Note: Neither Canine, nor an Airship acknowledged the request by Deputy Metten.

Deputy Richardson said he had attended Active Shooter training conducted at Palmdale High School approximately a couple months prior to the shooting. In the training he learned the goal in handling the situation was to identify the problem, enter as a team and look for innocent civilians. The civilians were to be quickly contacted for intelligence as to where the suspect may be, and immediately evacuated out to safety. Once the shooter was located, the team was to isolate the shooter, and disarm him/her.

IAB Note: A check of Deputy Richardson's training records revealed he attended the Active Shooter training on [redacted]

Deputy Richardson said prior to entering the restaurant, he had not discussed a plan for seeking out the suspect and victim, nor did the other deputies speak to him about a plan.

IAB Note: In Homicide Bureau Detective Peyton's supplemental report, Peyton wrote Deputy Richardson said he and Deputies Knott, Manes, Heberle and Metten formulated a plan prior to entering.

Richardson said he was very comfortable with the deputies assembled prior to entering because two, Deputies Heberle and Manes, were assigned to the Palmdale P. A. C. Team with him. He said they worked exclusively together in conducting building searches on a daily basis, looking for warrant suspects, and parolees-at-large as part of the team duties. Richardson said he had planned numerous times with Deputies Heberle and Manes when conducting searches prior to this shooting occurring, and was confident that each of them knew their individual responsibilities. Deputy Knott was Deputy Richardson's [redacted] and Richardson said he was extremely comfortable with how Knott would react and conduct an organized search.

Deputy Richardson said he entered the restaurant and cleared the front areas for patrons and or suspect(s). Richardson cleared the kitchen area while maintaining sight of the other deputies. Richardson said as they identified and searched a threat area, they would hold, check the threat, then move on as a team. Deputy Richardson said there was communication between them as the moved and cleared areas. As he cleared the kitchen, Richardson heard Deputy Manes yell out that the suspect was in a booth in the back of the restaurant. Richardson said upon hearing Deputy Manes'

announcement, he, Deputies Herberle, Metten, and Knott joined up and entered the rear dining area. The room was very dark because the lights were off and the only light was from the windows behind the suspect. As he reached the rear of the restaurant, Richardson saw Suspect Lazaro Leyva seated in the middle diningroom, to the rear of the restaurant. The suspect was seated in a corner booth, located in the northwest portion of the room. Suspect Lazaro Leyva was holding a handgun with his left hand to his head and was holding Victim [redacted] in a headlock with his right arm. She was and pulled very tightly to his chest. Deputy Richardson said he and the other deputies fanned out in a line in front of the suspect and victim. Deputy Metten dropped down to one knee in front of Richardson. Richardson placed his left hand on Metten's shoulder and told him not to stand up. Deputy Richardson had his weapon pointed at the suspect. He turned on the laser sight, and pointed at the suspect's forehead. Deputy Richardson said he remembered saying, "Don't do it. It's not worth it. Put the gun down." Richardson said Deputy Manes ordered the suspect to drop the weapon. Deputy Richardson said he had been in shootings before, and had seen the same stare on the face of those suspects as Suspect Lazaro Leyva displayed. He said, "His stare was looking through you. It was Zombie like, not registering." He said the suspect looked like he believed he had no other option and was going to die there. Deputy Richardson said the victim had a look on her face that projected to him she believed she was going to die there in the restaurant. Deputy Richardson was standing in the center of the walkway when he heard Suspect Lazaro Leyva say, "I'm gonna kill her." Suddenly, Suspect Lazaro Leyva removed the gun from his head and pointed it in the direction of Victim [redacted] head. Fearing for his safety and the safety of the victim, Richardson said he fired two rounds from his duty weapon at Suspect Lazaro Leyva's head. Richardson said he saw both of his rounds strike the suspect's head, and he heard other deputies firing at the suspect. Richardson said he saw the suspect slump back and recognized that the suspect was incapacitated. Richardson said he yelled out to stop firing and everyone stopped. Deputy Herberle moved around while they covered the suspect and the victim was pulled out from the booth to safety. He and the other deputies maintained cover on the suspect until the suspect's weapon was removed by Sergeant Johnston **(see Sergeant Johnston's supplemental report, page 25 of Exhibit A).**

Deputy Richardson said there was no cover afforded to him at the time of the shooting. He said they would have had to retreat back some distance to a booth wall near the kitchen, and then only one deputy would have been able to cover the suspect. Richardson said that he did not want to give up ground they had taken, and he was confident he would have been less accurate on his shots from a distance greater that ten feet.

IAB Note: Deputy Richardson was provided a diagram of the restaurant interior and he indicated the approximate positions of the deputies during the shooting. Refer to the diagram in Exhibit H.

Deputy Richardson said there was no discussion by anyone prior to the shooting designating a shooter or shooters. He said he felt it was not appropriate because it would have only telegraphed to the suspect that they intended to shoot him. He said they were trying to talk the suspect down and into giving up. The suspect said he was going to kill the victim and pointed the weapon toward her. Richardson said although there were less-lethal weapons on scene (Deputies Knott and Herberle had

tasers), they were not appropriate to use in this situation. Deputy Richardson said his back drop was a solid brick and bearing walls.

SUSPECT STATEMENTS:

The suspect was deceased at the scene. Refer to witness interviews for statements the suspect made prior to the shooting.

DEPARTMENT WITNESS STATEMENTS:

JOHNSTON, Mark A., Sergeant, #[redacted]

Sergeant Mark Johnston prepared a supplemental report to the incident. In his report, Sergeant Johnston wrote that when he arrived at Crazy Otto's Diner, he entered the restaurant, and immediately heard numerous gunshots. Witness Johnston wrote that he made contact with the involved deputies, ascertained that they were all unhurt, and that the suspect was injured. Johnston saw that the suspect's hands were still moving and out of sight. Using his flashlight, Johnston saw a handgun on the booth seat near the suspect's left elbow and he lifted the suspect's left wrist and slid the handgun away from the suspect's reach. Witness Johnston watched as an Los Angeles County Fire Department paramedics checked the suspect for vital signs and reported the suspect was deceased.

NON-DEPARTMENT WITNESS STATEMENTS:

[redacted] **FH**[redacted]
was interviewed at Palmdale Station regarding the incident by Homicide investigators Lowe and Peyton. I.A.B. investigators, Sergeants Kuykendall and Hines were present. The interview took place on 06-29-2005, at 1330 hours and was recorded. The following is a summary of the interview.

[redacted] said on the day of the incident she telephoned her [redacted] and asked for a ride to her work. Because of Suspect Lazaro Leyva's recent behavior, [redacted] asked [redacted] to park and wait for her away from the front of her residence, in case her estranged [redacted] Suspect Lazaro Leyva, may have been watching her activities. [redacted] explained that approximately one week earlier, she spent the day and night with Suspect Lazaro Leyva in an effort to salvage their [redacted] explained that during their [redacted] there was no history of violence, but Suspect Lazaro Leyva had abused alcohol and drugs. His substance abuse had declined throughout their [redacted] however, over the past several months, Suspect Lazaro Leyva's behavior had changed. He had moved away from his families' home and was socializing with individuals undesirable to her.

On the night she stayed with Suspect Lazaro Leyva, she said that she believed he was using drugs. Suspect Lazaro Leyva told her that he did not want to live anymore if they could not be together. During the course of the evening, [redacted] searched through Suspect Lazaro Leyva's clothing and found

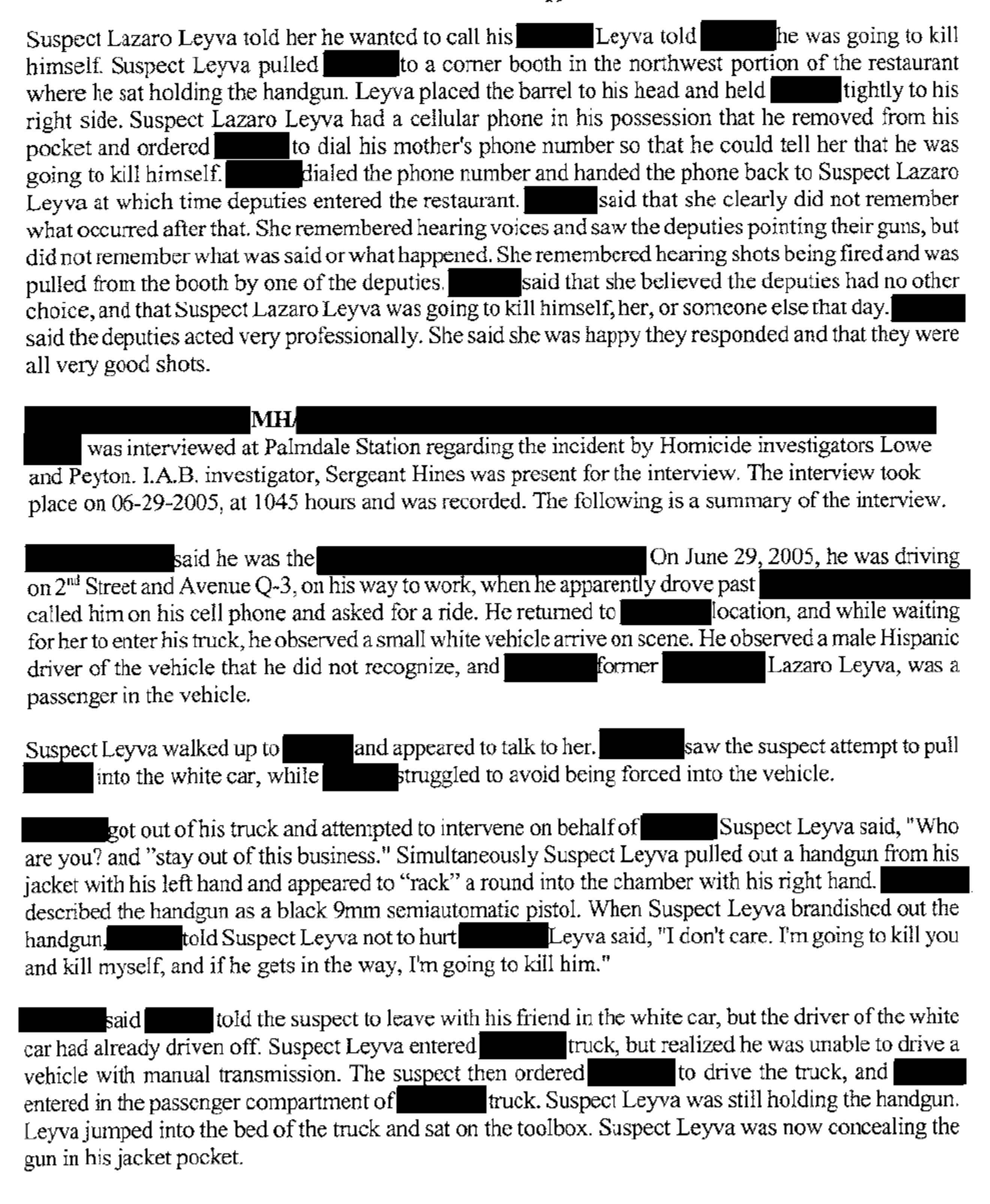
a small baggie containing a white powdery substance, she believed to be cocaine. [redacted] decided that she did not want to continue the [redacted] and decided to leave Suspect Lazaro Leyva while he slept. She wrote him a note saying that she did not want anything to do with him. She left the residence without incident.

Over the course of the next few days, Suspect Lazaro Leyva phoned [redacted] at work and home attempting to re-establish their [redacted] She rejected his pleas, and had a premonition that he was watching her.

On the morning of June 29, 2005, [redacted] left her home to go to work and was confronted by Suspect Lazaro Leyva, who was parked near her home. He was seated in the passenger's seat of a small compact vehicle driven by a male Hispanic adult that she had never seen before. Suspect Lazaro Leyva told her to get into the car. She refused and said that she had to go to work. He opened up his jacket and removed a large framed black metal handgun from the waistband of his pants and again told her to get into the car. [redacted] tried to talk to Suspect Lazaro Leyva and calm him. She asked him what was he going to do. Suspect Lazaro Leyva told her that he was going to kill himself. She pleaded with him not to kill himself. [redacted] drove past and happened upon [redacted] and Suspect Lazaro Leyva as they were engaged in discussion. [redacted] did not want to get into the car with Suspect Lazaro Leyva and the unidentified male, and was able to talk Suspect Lazaro Leyva into the truck with her and [redacted] Lazaro Leyva agreed and the unidentified male in the small compact drove away out of view.

[redacted] attempted to think of ways to get away or notify the Sheriff's Department as [redacted] drove through the city. [redacted] told [redacted] to drive to a local gas station and she would try to tell the attendant to notify the Sheriffs. [redacted] drove to the "Mobil" gas station and convenience store located at 110 East Palmdale Boulevard, and [redacted] tried to go inside and distance herself from Suspect Lazaro Leyva. [redacted] told Suspect Lazaro Leyva that she needed some water to take a pain pill. Suspect Lazaro Leyva said that he wanted a pain pill too. Once she exited the car, she could feel that Suspect Lazaro Leyva was following closely behind her. She entered the convenience store and tried to alert the cashier(**Witness** [redacted] that she was being followed by a man with a gun. After hearing [redacted] exclaim her fear, the cashier and a patron(**Witness** [redacted] screamed in terror. All three of the ladies ran toward the rear of the store to a restroom, and attempted to lock themselves inside. Suspect Lazaro Leyva ran to the restroom and ordered all of the ladies out of the room at gunpoint. [redacted] said she again attempted to distract Suspect Lazaro Leyva by asking him to obtain a water from the store's cooler so that she could flee the store. As he turned to get a beverage from the refrigerator, [redacted] ran from the store to the adjacent restaurant, "Crazy Otto's Diner."

[redacted] entered the restaurant, and yelled to everyone inside that she was being chased by a man with a gun. The patrons and workers inside the restaurant began to panic, and scatter out of the restaurant. Suspect Lazaro Leyva entered the restaurant behind [redacted] and chased her to the middle portion of the restaurant where he grabbed her. [redacted] said Suspect Lazaro Leyva asked her why she was trying to get away and she told him that she didn't want him to hurt himself. [redacted] said that



Suspect Lazaro Leyva told her he wanted to call his [redacted] Leyva told [redacted] he was going to kill himself. Suspect Leyva pulled [redacted] to a corner booth in the northwest portion of the restaurant where he sat holding the handgun. Leyva placed the barrel to his head and held [redacted] tightly to his right side. Suspect Lazaro Leyva had a cellular phone in his possession that he removed from his pocket and ordered [redacted] to dial his mother's phone number so that he could tell her that he was going to kill himself. [redacted] dialed the phone number and handed the phone back to Suspect Lazaro Leyva at which time deputies entered the restaurant. [redacted] said that she clearly did not remember what occurred after that. She remembered hearing voices and saw the deputies pointing their guns, but did not remember what was said or what happened. She remembered hearing shots being fired and was pulled from the booth by one of the deputies. [redacted] said that she believed the deputies had no other choice, and that Suspect Lazaro Leyva was going to kill himself, her, or someone else that day. [redacted] said the deputies acted very professionally. She said she was happy they responded and that they were all very good shots.

[redacted] **MH/**[redacted]

[redacted] was interviewed at Palmdale Station regarding the incident by Homicide investigators Lowe and Peyton. I.A.B. investigator, Sergeant Hines was present for the interview. The interview took place on 06-29-2005, at 1045 hours and was recorded. The following is a summary of the interview.

[redacted] said he was the [redacted] On June 29, 2005, he was driving on 2nd Street and Avenue Q-3, on his way to work, when he apparently drove past [redacted] called him on his cell phone and asked for a ride. He returned to [redacted] location, and while waiting for her to enter his truck, he observed a small white vehicle arrive on scene. He observed a male Hispanic driver of the vehicle that he did not recognize, and [redacted] former [redacted] Lazaro Leyva, was a passenger in the vehicle.

Suspect Leyva walked up to [redacted] and appeared to talk to her. [redacted] saw the suspect attempt to pull [redacted] into the white car, while [redacted] struggled to avoid being forced into the vehicle.

[redacted] got out of his truck and attempted to intervene on behalf of [redacted] Suspect Leyva said, "Who are you? and "stay out of this business." Simultaneously Suspect Leyva pulled out a handgun from his jacket with his left hand and appeared to "rack" a round into the chamber with his right hand. [redacted] described the handgun as a black 9mm semiautomatic pistol. When Suspect Leyva brandished out the handgun, [redacted] told Suspect Leyva not to hurt [redacted] Leyva said, "I don't care. I'm going to kill you and kill myself, and if he gets in the way, I'm going to kill him."

[redacted] said [redacted] told the suspect to leave with his friend in the white car, but the driver of the white car had already driven off. Suspect Leyva entered [redacted] truck, but realized he was unable to drive a vehicle with manual transmission. The suspect then ordered [redacted] to drive the truck, and [redacted] entered in the passenger compartment of [redacted] truck. Suspect Leyva was still holding the handgun. Leyva jumped into the bed of the truck and sat on the toolbox. Suspect Leyva was now concealing the gun in his jacket pocket.

Witness [redacted] said he told Suspect Leyva that he had to get gas and drove to the Mobil Gas station located at 110 East Palmdale Boulevard in Palmdale. While en route to the gas station, [redacted] told [redacted] that she was very frightened and was going to attempt to escape from the suspect when they arrived at the gas station. When [redacted] pulled into the Mobil Gas station, [redacted] exited the truck, leaving her purse in the cab. She ran into the cashier/convenient store area of the gas station. Suspect Leyva ran into the store after [redacted] After a few minutes while [redacted] was pumping gas into the truck, he saw [redacted] run out of the convenience store yelling for someone to call the police. [redacted] ran east on Palmdale Boulevard toward the Crazy Ottos Diner, located just east of the Mobil Gas station.

Witness [redacted] said he telephoned the Sheriff's Department. While [redacted] was on the phone with the Sheriff's dispatcher, [redacted] ran after [redacted] and Suspect Leyva toward Crazy Otto's Diner. When [redacted] got to the east entrance of the restaurant, he was confronted by numerous customers running out of the restaurant. [redacted] said he did not enter the restaurant. He saw several Sheriff's marked radio cars and uniformed deputies arrive on scene. [redacted] saw approximately six to seven deputies enter the restaurant in pursuit of the suspect.

[redacted] said soon after the deputies went inside the restaurant, he heard the voices of the deputies giving orders to the suspect saying, something to the effect of, "Lay down or drop the gun." After hearing these orders [redacted] said he immediately heard approximately six to eight gunshots coming from within the restaurant. [redacted] said he was outside the restaurant and did not witness the shooting. [redacted] ran toward the Mobil Gas station, waited, and he was contacted by deputies.

[redacted] **FH/**[redacted] was interviewed by Homicide investigator, Karen Shonka, on 06-29-2005. Detective Shonka prepared a supplemental report documenting the interview. The following is a summary of her interview.

[redacted] said on June 29, 2005, she was inside of the Mobil gas station when a female ran into the convenience store area, and yelled that she was being chased by a man with a gun. [redacted] and the female ([redacted]) ran into a bathroom to hide. Moments later, a male opened the bathroom door, pointed a handgun at her, and demanded the keys to her car. [redacted] and [redacted] pleaded with the suspect to go and do not take [redacted] car. The suspect pulled [redacted] from the bathroom, and forced her out of the gas station mini-mart. Witness [redacted] said she left the location and did not see what occurred at the restaurant.

[redacted] **FW/**[redacted] was interviewed by Homicide investigators, Sergeant Martin Rodriguez and Detective Ty Labbe. Present for the interview was IAB investigator, Sergeant William Hines, on 06-29-2005. The interview took place at Palmdale Station and was tape recorded. Ms. [redacted] said the following:

On June 29, 2005, at about 9:20 in the morning, she was [redacted] and [redacted] when a woman, later identified as [redacted] entered the store. [redacted] appeared to be in a

hurry and was followed by a male, later identified as Suspect Lazaro Leyva. Suspect Leyva opened the door, stuck his head in, and said something to [redacted] Witness [redacted] said she was unable to understand what the suspect said. The woman then left the store briefly and returned a few moments later with the suspect.

[redacted] walked up to [redacted] and asked, "Can you call the police. This guy has a gun." Witness [redacted] said she picked up the telephone in an attempt to call the police when she saw the suspect and became frightened. [redacted] and customer [redacted] ran toward the bathroom to hide from the suspect. When all three females entered the bathroom, the suspect entered the restroom and brandished a dark handgun. The suspect took the phone away from [redacted] believed the police had already been called and were on an open line on the phone. [redacted] and [redacted] began to talk to the suspect, in Spanish, and he continued to waive the handgun in a threatening fashion.

The suspect appeared agitated, and [redacted] heard him say in English, "How could you do this to me?" to the victim. [redacted] response to the suspect was, in English, "Let's talk about this. Let's go outside and talk." [redacted] who was a customer, was pleading with the suspect to let her go because she had [redacted] in the car. The suspect, still holding the handgun, then left with the victim, and also took the telephone with him. Prior to leaving the bathroom, the suspect told [redacted] "Stay in the bathroom for at least five minutes and don't call the police." After leaving the bathroom the suspect returned a short time later. The suspect was still holding the handgun and appeared angry, yelling at [redacted] "What are you doing? Are you calling the police?" [redacted] answered the suspect by stating, "I don't even have a phone."

The suspect demanded [redacted] car keys, however, she refused. At this time , [redacted] ran from the store distracting the suspect from [redacted] and [redacted] The suspect then chased after [redacted] running out of the store. When Suspect Leyva left the store, the female customer, [redacted] ran from the location, entered her vehicle and drove away from the scene in her minivan.

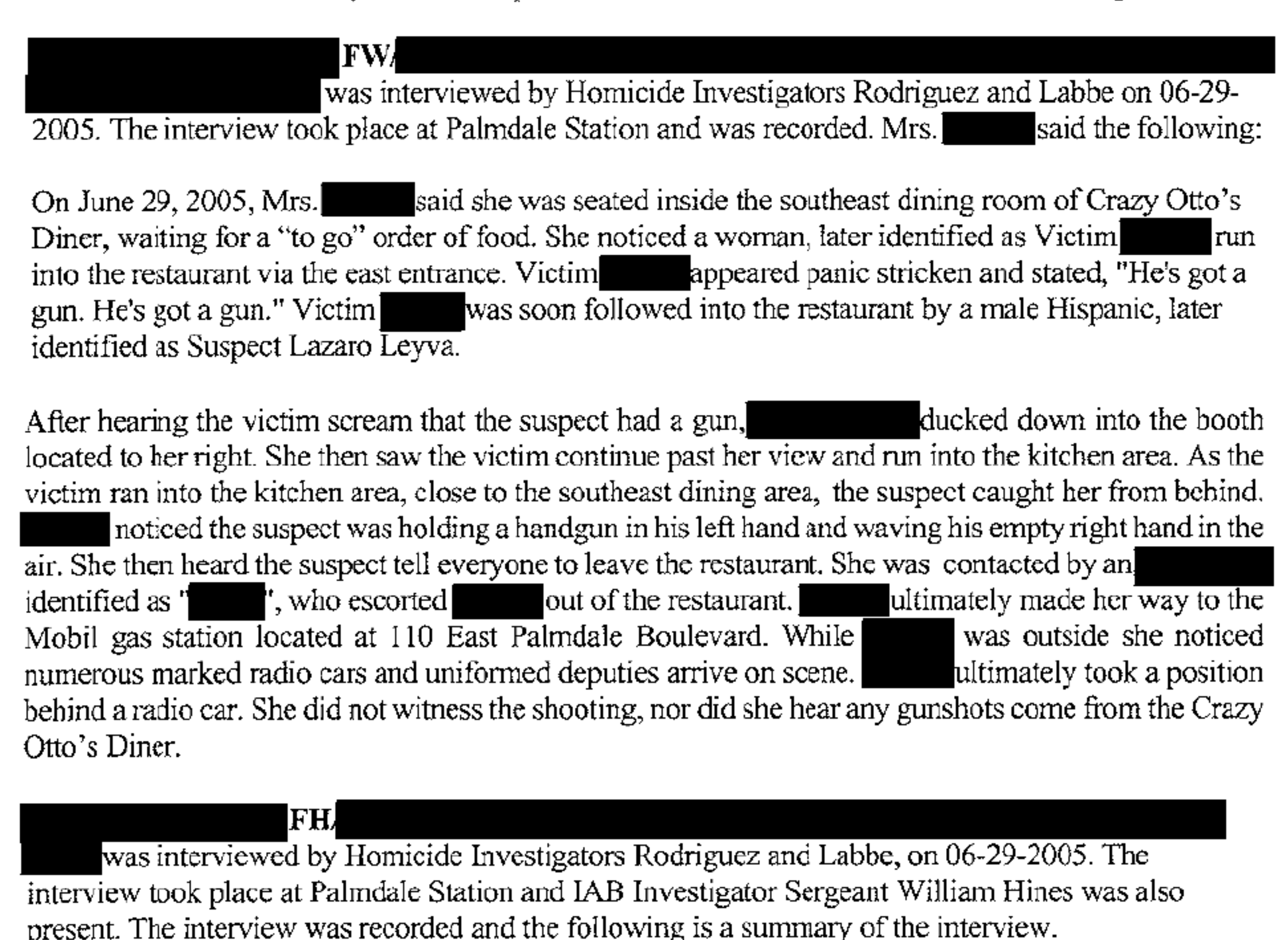
[redacted] said she locked the doors to the store and remained inside until she saw the police arriving on scene. She last saw the victim and suspect running toward "Crazy Otto's Diner", located just east of the Mobil Gas station. [redacted] said a few minutes after the suspect and victim left the scene, she heard approximately three gunshots coming from the area of Crazy Otto's Diner. Sometime after the shots were heard, [redacted] said she saw [redacted] return to the gas station and retrieve a pair of sandals that she had apparently run out of. When [redacted] returned to the Mobil Gas station, [redacted] noticed that there appeared to be blood on her chest area.

Moreno, Rick, LA Co. FD, Battalion Chief, MH/[redacted] 1320 N. Eastern Avenue, Los Angeles, CA 90063, (323) 881-6105, was interviewed by Palmdale Deputy Kenneth Elliott, #[redacted] on 06-29-2005. The interview took place near the incident location. Deputy Elliott prepared a supplemental report documenting the interview. The following is a summary of his interview.

Chief Moreno said on June 29, 2005, at about 09:15 a.m., he was on Palmdale Boulevard at Division Street awaiting a traffic signal to change when he saw a Hispanic female in her thirties running from

the Mobil gas station toward Crazy Otto's Diner. Moreno said he saw a male Hispanic in his mid-thirties running after the female. The male was wearing a coat, which was heavy for such warm weather and had his right hand inside the coat's pocket.

Moreno slowed to watch the two. When he saw the female and male enter the diner, Moreno believed he was witnessing an armed robbery about to occur. Moreno radioed to his dispatch center and had them notify the Sheriff's Department of his observations. As Moreno watched the diner, he saw several males and females run from the restaurant. One of the males ran up to Moreno and asked him to call the Sheriff's Department because there was a man with a gun inside. Moreno used his public address system to advise all of the people fleeing the diner to move away from the area. Moreno moved his vehicle and watched as numerous Sheriff vehicles arrived on scene. The arriving deputies told Moreno to move away and he complied. Moreno did not hear or witness the shooting.



[redacted] FW/[redacted]

[redacted] was interviewed by Homicide Investigators Rodriguez and Labbe on 06-29-2005. The interview took place at Palmdale Station and was recorded. Mrs. [redacted] said the following:

On June 29, 2005, Mrs. [redacted] said she was seated inside the southeast dining room of Crazy Otto's Diner, waiting for a "to go" order of food. She noticed a woman, later identified as Victim [redacted] run into the restaurant via the east entrance. Victim [redacted] appeared panic stricken and stated, "He's got a gun. He's got a gun." Victim [redacted] was soon followed into the restaurant by a male Hispanic, later identified as Suspect Lazaro Leyva.

After hearing the victim scream that the suspect had a gun, [redacted] ducked down into the booth located to her right. She then saw the victim continue past her view and run into the kitchen area. As the victim ran into the kitchen area, close to the southeast dining area, the suspect caught her from behind. [redacted] noticed the suspect was holding a handgun in his left hand and waving his empty right hand in the air. She then heard the suspect tell everyone to leave the restaurant. She was contacted by an [redacted] identified as "[redacted]", who escorted [redacted] out of the restaurant. [redacted] ultimately made her way to the Mobil gas station located at 110 East Palmdale Boulevard. While [redacted] was outside she noticed numerous marked radio cars and uniformed deputies arrive on scene. [redacted] ultimately took a position behind a radio car. She did not witness the shooting, nor did she hear any gunshots come from the Crazy Otto's Diner.

[redacted] FH/[redacted]

[redacted] was interviewed by Homicide Investigators Rodriguez and Labbe, on 06-29-2005. The interview took place at Palmdale Station and IAB Investigator Sergeant William Hines was also present. The interview was recorded and the following is a summary of the interview.

On June 29, 2005, Witness [redacted] and her two [redacted] entered Crazy Otto's Diner to eat breakfast. They were directed to, and seated by a restaurant employee at a table/booth in the southeast dining area of the restaurant. They took the booth located just south of the east entrance to the Crazy Otto's Diner. When the server asked them what they wished to drink, they saw a woman, later identified as Victim

[redacted] run into the restaurant. She was immediately followed by a male, later identified as the suspect. [redacted] said that the male ran into the restaurant carrying a dark handgun in his left hand.

[redacted] said she heard the woman shouting, and initially thought the victim was stating, "I got the job." Then she later realized that the victim was actually saying, "He's got a gun. Please don't kill me. Please don't kill me." The victim ran into the kitchen area, circled around the area, and re-emerged near the southeast dining area. It was at that point that [redacted] said she saw the suspect catch the victim from behind. She heard the victim pleading with the suspect stating in Spanish, "I love you, pappi."

The [redacted] who was serving [redacted] told her and her [redacted] to leave the restaurant. While the [redacted] were preparing to leave, [redacted] saw the [redacted] of the restaurant, a male Asian, attempt to intervene in the confrontation between the suspect and the victim.

The [redacted] left the restaurant and made their way to the Mobil gas station located west of the Crazy Otto's Diner. Witness [redacted] said they saw numerous uniformed deputies arrive on scene in marked radio cars. [redacted] said while she was waiting at the Mobil gas station, she saw an unidentified deputy loading a shotgun, then she immediately heard approximately three gunshots coming from the area of Crazy Otto's Diner. [redacted] said she did not witness the shooting.

[redacted] **FW/** [redacted] was interviewed by Homicide Investigators Rodriguez and Labbe. Also present was IAB investigator, Sergeant William Hines. The interview was recorded. The following is a summary of the interview.

Witness [redacted] said on June 29, 2005, she was [redacted] at Crazy Otto's Diner. At around 9:15 a.m., she was filling salt and pepper shakers in an area west of the kitchen and east of the west dining area. While inside the restaurant, she saw a woman, later identified as Victim [redacted] enter the restaurant run toward her shouting, "He's got a gun! He's got a gun!" [redacted] was followed by a male, later identified as Suspect Lazaro Leyva, who appeared to be chasing her. [redacted] ran past Witness [redacted] and into the kitchen area. When the victim came to an area that she could not exit from, [redacted] saw the suspect come from behind and grab the victim while the victim was attempting to crouch down. She then noticed that the suspect was holding a dark semiautomatic handgun in his right hand.

Witness [redacted] said she ran from the area and ran into the northwest dining area where two female customers were seated. She contacted the female customers in the northwest dining area and asked to borrow a cell phone. One of the female customers provided a cell phone to [redacted] however, when she tried to call for help, she was unable to connect to 9-1-1 for emergency assistance.

[redacted] said that the owner of Crazy Otto's restaurant, identified as "[redacted]" entered the northwest dining area and directed [redacted] and the two female customers to exit out a door located on the north side of the restaurant. [redacted] and the two female customers exited the doorway on the north side of the restaurant onto Palmdale Boulevard. When [redacted] was

outside, she noticed a Fire Department vehicle on scene near the northeast corner of the restaurant. She then noticed numerous marked radio cars, along with uniformed deputies arriving on scene. She was told to go to the Mobil gas station located west of Crazy Otto's Diner, and she made her way to the gas station. While walking to the gas station, she heard what sounded like approximately two muffled gunshots coming from inside the Crazy Otto's Diner.

[redacted] MA/[redacted] was interviewed on 06-29-2005 by Homicide investigators Rodriguez and Labbe, along with IAB Investigator, Sergeant William Hines. The interview was recorded and the following is a summary of the interview.

Witness [redacted] said he was the [redacted] of Crazy Otto's Diner and on June 29, 2005, he was in [redacted] within the diner, earlier in the morning when a [redacted] named "[redacted]" (Witness [redacted] came into [redacted] and advised him there was a problem. [redacted] told [redacted] there was a man with a gun in the restaurant. [redacted] viewed the surveillance camera monitor, [redacted] and saw a male, later identified as the suspect, physically involved with a female, later identified as Victim [redacted] and one of [redacted]

Witness [redacted] left [redacted] and entered the restaurant in order to intervene with the confrontation. [redacted] contacted the suspect and asked him, "Are you sure you want to do this?" The suspect looked at [redacted] and did not say anything all the while he was restraining the victim. The suspect then produced a dark semiautomatic pistol in his right hand, in a downward direction. Initially, the suspect did not say anything and [redacted] asked him once again, "Do you want to talk?" At this point the suspect responded by telling [redacted] to get out.

[redacted] then started to evacuate [redacted] employees and customers. He directed customers and employees out through the east entrance of the restaurant and subsequently he left the restaurant himself. When Witness [redacted] exited the restaurant, he said he saw a Fire Department vehicle and flagged the driver to report the incident. He started a headcount of [redacted] employees and saw that one employee, named [redacted] was calling the police on his cellular telephone. Witness [redacted] saw numerous uniformed deputies in marked radio cars arriving on scene. He was subsequently contacted by an unknown deputy and asked about the doors leading to the interior of the restaurant.

[redacted] escorted deputies to a door located on the north side of the restaurant facing Palmdale Boulevard. He observed at least two deputies enter the restaurant via this doorway. Soon after the deputies entered the restaurant, he heard approximately seven to eight gunshots emanating from inside the restaurant. Witness [redacted] said he was standing outside the restaurant on the north side near Palmdale Boulevard when he heard the gunshots, and he could not see who fired the shots or hear any of the activity that occurred inside the restaurant prior to the gunshots being fired.

[redacted] MH/[redacted]

[redacted] was interviewed on 06-29-2005, by Homicide Investigators Rodriguez and Labbe. Present in the interview was I.A.B. Sergeant William Hines. The interview was recorded and the following is a summary of the interview.

Witness [redacted] said on June 29, 2005, he was [redacted] at Crazy Otto's Diner and had [redacted] a family at a table located just south of the east entrance. While [redacted] the customers orange juice, he heard a woman screaming and looked for the origin of the scream. He noticed a woman, later identified as the victim, running into the restaurant through the east entrance. He heard the victim shouting, "He's got a gun! He's got a gun!" Directly behind the victim was a male, later identified as the suspect, wearing a tan jacket. It appeared the suspect was chasing the victim. Initially [redacted] did not see a gun in the suspect's hand.

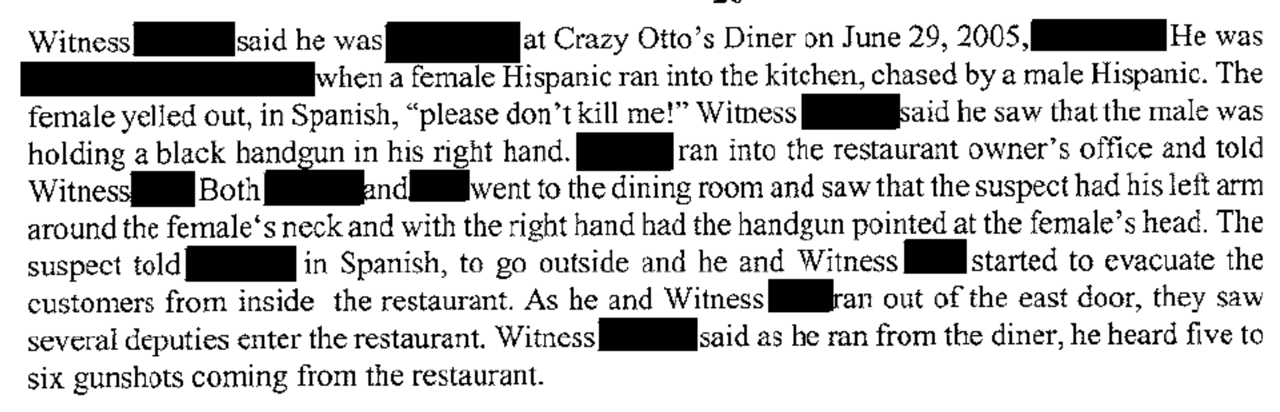
Witness [redacted] said he saw the victim run west through the restaurant, then south into the kitchen area. He came back north in the kitchen area on the east side of the kitchen and came to a dead-end. At this point the suspect who was chasing the victim caught her from behind and grabbed her as the victim was crouching forward. [redacted] heard the victim pleading with the suspect in Spanish stating, "No me matas. No me matas." *(Translation: Don't kill me.)* [redacted] then yelled at the suspect in an attempt to get his attention; however, the suspect ignored him.

Witness [redacted] saw a cook named [redacted] run out of the kitchen area and hit the silent alarm button in an attempt to contact the police. [redacted] said he picked up a phone and dialed 9-1-1 to report a man with a gun inside the location and give a description of the clothes the gunman was wearing.

Witness [redacted] said he saw customers in the southeast dining area and waved to them to leave the restaurant immediately. The [redacted] of Crazy Otto's Diner, [redacted] walked over to [redacted] and told him to leave. While he was leaving the restaurant, [redacted] said he saw an elderly customer still seated in a booth located in the southeast dining area, and he told the elderly customer to leave the restaurant at once. [redacted] said he overheard the suspect asking for a glass of water, and he noticed the suspect was brandishing a dark semiautomatic handgun. Witness [redacted] went to the location of the elderly customer, identified as [redacted] and escorted her outside through the east entrance.

Witness [redacted] went outside. He saw uniformed deputies in marked radio cars arriving on scene. He saw the deputies enter the restaurant via the east entrance. While [redacted] was standing outside near the northeast corner of the restaurant, he heard deputies in the area shouting, "Shots fired! Shots fired!" After that he heard approximately five to six gunshots coming from inside the restaurant. Witness [redacted] said he did not witness the shooting. He went to the Mobil gas station until he was contacted by Deputies.

[redacted] MH[redacted] was interviewed by Palmdale Deputy Paul Nevarez, #[redacted] Deputy Nevarez prepared a supplemental report documenting his interview of Mr. [redacted] The following is a summary of the interview.



Witness [redacted] said he was [redacted] at Crazy Otto's Diner on June 29, 2005, [redacted] He was [redacted] when a female Hispanic ran into the kitchen, chased by a male Hispanic. The female yelled out, in Spanish, "please don't kill me!" Witness [redacted] said he saw that the male was holding a black handgun in his right hand. [redacted] ran into the restaurant owner's office and told Witness [redacted] Both [redacted] and [redacted] went to the dining room and saw that the suspect had his left arm around the female's neck and with the right hand had the handgun pointed at the female's head. The suspect told [redacted] in Spanish, to go outside and he and Witness [redacted] started to evacuate the customers from inside the restaurant. As he and Witness [redacted] ran out of the east door, they saw several deputies enter the restaurant. Witness [redacted] said as he ran from the diner, he heard five to six gunshots coming from the restaurant.

CRIMINAL INVESTIGATOR and CHARGES FILED:

Investigator:	Detective Kevin Lowe and Dameron Peyton, Homicide Bureau
Court:	**N/A**
Charges Filed	None
Court Date	N/A
Plea/Conviction:	N/A
Sentence:	N/A

PROPERTY DAMAGE:

Nine (9) bullet strikes to a north wall in the center dining room, inside of the restaurant at 120 East Palmdale Boulevard, DBA, "Crazy Otto's Diner."

SH214573





LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY • Chief Deputy District Attorney
CURTIS A. HAZELL • Assistant District Attorney

RICHARD D. DOYLE • Director

January 17, 2006

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J. S. I. D. File No. 05-0387
LASD File No. 005-11522-2611-013

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 29, 2005, fatal shooting of Lazaro Leyva by Los Angeles County Sheriff's Deputies Rick Manes, Randell Heberle, Mark Richardson, Eric Metten, and Theodore Knott. We have concluded the deputies acted lawfully in self-defense and in the defense of others.

The following analysis is based upon our review of an investigative file prepared by the Los Angeles County Sheriff's Department (LASD), which included investigative reports, property reports, analyzed evidence reports, and summaries of witness' statements taken during the investigation and submitted to this office by Detective Dameron Peyton on November 23, 2005. The District Attorney Command Center was notified of the shooting at approximately 10:20 a.m. on June 29, 2005. The District Attorney Response Team comprised of Deputy District Attorney Corene Locke-Noble and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the shooting and a "walk-through" of the scene. Compelled statements were not considered in our analysis.

FACTUAL ANALYSIS

On the morning of June 29, 2005, [redacted] called her [redacted] for a ride to work. As she walked on Avenue Q-3 between 2nd Street East and

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Larkin Avenue, to meet [redacted] Lazaro Leyva[1] confronted her from the passenger seat of a parked car. He showed her a gun and ordered her to get into his car. She refused and told him she had to go to work. Leyva[2] warned her he was going to kill himself today and that he did not want to live anymore if they could not be together. She told him he did not have to kill himself. Leyva said he wanted to talk to her and demanded she get into the car. She refused again.

While this was taking place, [redacted] drove up. [redacted] was able to convince Leyva to get into [redacted] truck. [redacted] indicated he needed gas and drove to the Mobil gas station at 110 East Palmdale Boulevard. [redacted] went inside to pay for the gas and [redacted] operated the pump. It was her intent to have the attendant contact the police, but Leyva followed her into the station.

She returned to the truck and subsequently thought of a rouse to go back into the mini-mart to get help. She indicated to Leyva she needed water to take some medication and walked back into the store. Although Leyva followed her to the store again, he was far enough behind her that the door closed before he reached it. She surreptitiously asked the cashier to contact the police. Nevertheless, a female customer overheard the request and screamed, which caused Leyva to rush inside.

Aurora, the cashier, and the customer ran into the bathroom to escape. But Leyva prevented them from shutting the door and pulled [redacted] out. He told the others to wait in the bathroom for five minutes before leaving. Meanwhile, [redacted] dialed 911 on his cell phone and informed the dispatcher of the life-threatening situation.

As [redacted] and Leyva were walking towards the exit, Leyva said he was thirsty. [redacted] told him to get a drink from the cooler. When Leyva went to the cooler to get a drink, [redacted] ran out of the store leaving her shoes behind. She was chased into the Crazy Otto Diner by Leyva. As [redacted] entered the diner she screamed, "He's got a gun! He got a gun!"

He subsequently caught her in the restaurant and yelled for everyone to leave. [redacted] went to the office and informed [redacted] of the situation. When Mr. [redacted] returned, he observed Leyva with his arm around [redacted] neck and the gun pointed at her head. Leyva ordered everyone to leave the restaurant. [redacted] and [redacted] evacuated everyone from the diner. Subsequently, Leyva took [redacted] to a booth in the back and they sat down. He told her he was going to kill her and then he was going to kill himself.

At approximately 9:30 a.m., Los Angeles County Sheriff Deputies Randy Heberle, Theodore Knott, Rick Manes, Eric Metten, and Mark Richardson were in uniform, and

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[1] The victim [redacted] was unrelated to the suspect Larzaro Leyva. They previously had a [redacted] but [redacted] ended it because of Leyva's use of drugs.

[2] For the purposes of clarity hereinafter Lazaro Leyva will be referred to as "Leyva" and [redacted] as "[redacted]

responded to the Crazy Otto Diner located at 120 East Palmdale Boulevard, Palmdale pursuant to an "assault with a deadly weapon/man with a gun/domestic disturbance now" call.

Upon their arrival, they were met by the owner, several employees, and patrons of the diner. They were informed the suspect, later identified as Lazaro Leyva, was armed and inside with a hostage. They entered the location and saw Leyva and the victim, [redacted] seated in a booth located in the northwest corner of the restaurant. Leyva was holding [redacted] by her neck and was armed with a handgun.

Deputy Manes ordered Leyva several times to put the handgun down. Leyva failed to comply with his orders and stated, "I'm gonna kill her." Deputy Richardson said to Leyva, "Don't do it. It's not worth it. Put the gun down."[3] Suddenly, Leyva took the gun from his head and pointed it in the direction of [redacted] head. Fearing for her safety, their own safety, and the safety of those around them, the deputies fired their duty weapons. Immediately afterwards, Deputy Heberle removed the victim from the booth to a place of safety. A black semiautomatic handgun was recovered from the booth where Leyva had been seated.

Investigators canvassed the area and spoke to [redacted] of the Mobil Gas Station, Crazy Otto's Diner, [redacted] and several bystanders. Several [redacted] and patrons of the restaurant heard but did not see the shooting. Those statements will not be discussed in detail as they shed no useful light on the events of the shooting. However, several witnesses saw Leyva chase [redacted] into the restaurant with a gun. They heard [redacted] yell, "He has a gun" and plead with him in Spanish not to kill her. Shortly thereafter the police arrived and witnesses heard several shots. Leyva[4] was pronounced dead at the scene by paramedics.

LEGAL ANAYLSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. *People v. Williams (1977) 75 Cal.App.3d 731.*

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *California Jury Instructions-Criminal 5.30, 5.32.*

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[3] At this time it appeared to Deputy Richardson that Leyva's stare was, "Looking through you. It was zombie like."

[4] It should be noted Sergeant M. Johnston's report described the weapon as a "blue steel" semiautomatic handgun. Pursuant to the case notes of James Carroll, the firearms examiner, the gun was black plastic. There were eight live rounds in the magazine and one in the chamber.

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. *People v. Collins (1961) 189 Cal. App.3d 575.*

CONCLUSION

The evidence gathered in this investigation showed Lazaro Leyva's desperate frame of mind. It was his intention to kill [redacted] and then kill himself with his gun. His statement that he was going to kill [redacted] coupled with his action of putting the gun to her head caused Deputies Rick Manes, Randell Heberle, Mark Richardson, Eric Metten, and Theodore Knott, to react to this threatening situation in the only way possible. Fearing for their lives, [redacted] life, and for the lives around them, the deputies responded with deadly force fatally wounding Leyva and terminating the encounter.

Given the appearance of a rapidly evolving, potentially life-threatening situation that confronted Deputies Rick Manes, Randell Heberle, Mark Richardson, Eric Mettem, and Theodore Knott, we conclude all of the deputies acted lawfully in self-defense and in the defense of others. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By [signature]

CORENE S. LOCKE-NOBLE
Deputy District Attorney
(213) 974-3880

c: Deputy Randy Heberle #[redacted]
Deputy Theodore Knott #[redacted]
Deputy Rick Manes #[redacted]
Deputy Eric Metten #[redacted]
Deputy Mark Richardson #[redacted]